

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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HEARTLAND PAYMENT SYSTEMS, INC.,

Plaintiff,

**ORDER**

10-CV-1739 (ADS) (AKT)

-vs.-

ISLAND PRICE HOMES, INC. and  
SALVATORE PANE,

Defendants.

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**APPEARANCES:**

**LaMonica Herbst & Maniscalco LLP**

*Attorneys for the plaintiffs*

3305 Jerusalem Avenue

Wantagh, NY 11793

By: David A. Blansky, Esq., Of Counsel

**NO APPEARANCE:**

Island Price Homes, Inc.

Salvatore Pane

**SPATT, District Judge.**

On April 20, 2010, the plaintiff commenced this action against the defendants seeking monetary damages based on theories of breach of contract, account stated, and unjust enrichment. On February 9, 2011, the Court entered a default judgment against the defendants Island Price Homes, Inc. and Salvatore Pane, and referred the matter to United States Magistrate A. Kathleen Tomlinson for an inquest as to damages, including reasonable attorneys' fees and costs. On August 31, 2011, Judge Tomlinson issued a Report and Recommendation (the "Report") recommending that the Court award the plaintiff damages in the amount of: (1) \$144,810.54 in principal damages; (2) \$3,318,50 in attorneys' fees; and (3) \$1,151,45 in costs. Judge Tomlinson further recommended that the Court award the plaintiff post-judgment interest

at the rate set forth in 28 U.S.C. § 1961 as of the date of the entry of final judgment. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Tomlinson’s Report, it is hereby

**ORDERED**, that Judge Tomlinson’s Report and Recommendation is adopted in its entirety. The Court awards the plaintiff: (1) \$144,810.54 in principal damages; (2) \$3,318,50 in attorneys’ fees; (3) \$1,151,45 in costs; and (4) post-judgment interest at the rate set forth in 28 U.S.C. § 1961 as of the date of the entry of final judgment, and it is further

**ORDERED**, that the Clerk of the Court is directed to enter judgment in favor of the plaintiff in the amount of \$149,280.49, plus post-judgment interest pursuant to 28 U.S.C. § 1961, and it is further

**ORDERED**, that the Clerk of the Court is directed to close this case.

**SO ORDERED.**

Dated: Central Islip, New York  
September 22, 2011

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge